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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,444	07/16/2003	Noriyuki Fukui	240303US2	6955

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EXAMINER

SANTIAGO CORDERO, MARIVELISSE

ART UNIT PAPER NUMBER

2687

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,444

Applicant(s)

FUKUI, NORIYUKI

Examiner

Marivelisse Santiago-Cordero

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 5 is/are rejected.
- 7) ☐ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

By

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 3 have been considered but are moot in view of the new ground(s) of rejection.

However, since the arguments are still relevant to some of the references being applied, in response to applicant's arguments the Ahmed does not teach or suggests that the acknowledgment/non-acknowledgement data and the channel condition measurement report data are sent together by the receiver to the transmitter, the Examiner makes reference to Ahmed, col. 4, lines 54-55, where it discloses that the MS reports the channel condition measurement data when it reports the non-acknowledgement data to the BTS; hence suggesting that both data are sent together. See also Ahmed's Figure 5 where it shows that feedback channel 506 receives the acknowledgment/non-acknowledgement data and the channel condition measurement report data and outputs a single signal to the transmitter.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmed (cited in form PTO-892, Paper No.: 20050427) in view of Malladi et al. (hereinafter "Malladi"; Pub. No.: US 2003/0210668).

Regarding claim 1, Ahmed discloses a method for reporting a quality of a transmission channel between a transmitter and a receiver, comprising: transmitting frames of data from said transmitter over said transmission channel to said receiver (col. 3, line 59); sending back from

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said receiver to said transmitter a non-acknowledgement information when a frame of data received by said receiver is detected as erroneous (col. 3, lines 30-34 and 59-63), sending from said receiver to said transmitter, at scheduled reporting times, an information representative of the quality of the transmission channel at said reporting times (col. 3, lines 59-65), and sending in the non-acknowledgement information from said receiver back to said transmitter (col. 3, lines 59-63), together with information representative of the quality of the transmission channel at a time the non-acknowledgement information is sent (col. 4, lines 54-55).

Ahmed fails to disclose sending in a **same sub frame** and sending in the non-acknowledgement information from said receiver back to said transmitter, together with information representative of the quality of the transmission channel at a time the non-acknowledgement information is sent, said time being different than said reporting times.

However, Malladi discloses sending in a **same sub frame** the non-acknowledgement information from said receiver back to said transmitter, together with information representative of the quality of the transmission channel at a time the non-acknowledgement information is sent (Fig. 2C; page 3, paragraph [0052]) said time being different than said reporting times (Fig. 3).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to send the non-acknowledgement information together with information representative of the quality of the transmission channel, at a time the non-acknowledgement information is sent, of Ahmed in the same sub frame and said time being different than said reporting times as suggested by Malladi.

One of ordinary skill in this art would have been motivated to send the non-acknowledgement information together with information representative of the quality of the

transmission channel, at a time the non-acknowledgement information is sent in the same sub frame and said time being different than said reporting times because it would support high-speed downlink packet access (Malladi: page 2, paragraph [0035]).

Regarding claim 5, in the obvious combination, Ahmed discloses wherein said transmitter is included in a base station and said receiver is included in a mobile terminal of a telecommunication system provided with HSDPA access (Fig. 5; col. 3, lines 14-20).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmed in combination with Malladi as applied to claim 1 above, and further in view of Miyoshi et al. (hereinafter "Miyoshi"; cited in form PTO-892, Paper No.: 20050427).

Regarding claim 3, Ahmed in combination with Malladi discloses the method according to the claim 1 (see above). Ahmed in combination with Malladi fail to disclose further comprising: sending said information representative of the quality of the transmission channel if the receiver has already sent the non-acknowledgement information a predetermined number of times at consecutive times.

However, Miyoshi, in a method wherein a transmitter transmits frames of data over a transmission channel and a receiver sends back to said transmitter a non-acknowledgement information when a received frame of data is detected as erroneous (page 2, paragraphs [0031]), discloses sending said information representative of the quality of the transmission channel if the receiver has already sent the non-acknowledgement information a predetermined number of times at consecutive times (page 2, paragraph [0032]; page 8, paragraph [0119]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to only send the information representative of the quality of the

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transmission channel of Ahmed in combination with Malladi if the receiver has already sent the non-acknowledgement information a predetermined number of times at consecutive times as suggested by Miyoshi.

One of ordinary skill in this art would have been motivated to only send the information representative of the quality of the transmission channel if the receiver has already sent the non-acknowledgement information a predetermined number of times at consecutive times because it would make it possible to select a communication mode that enables communication to be performed most efficiently with the current actual channel quality (Miyoshi: page 5, paragraph [0070]) and because reception quality determination can be performed quickly and easily (Miyoshi: page 5, paragraph [0071]).

Allowable Subject Matter

5. Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SONNY TRINH
PRIMARY EXAMINER